

§ 343.1

343.3 Filing of Form MSD-4, Amending Statements, and Form MSD-5.

AUTHORITY: 15 U.S.C. 78o-4(c)(5), 78q, and 78w; 12 U.S.C. 1811 *et seq.*

§ 343.1 Scope of part.

(a) This part is issued by the Federal Deposit Insurance Corporation (the *Corporation*) pursuant to those provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which provide for the regulation of bank municipal securities dealers and their activities.

(b) This part shall apply to all State banks insured by the Federal Deposit Insurance Corporation and not a member of the Federal Reserve System, or separately identifiable departments or divisions of such banks, which act as municipal securities dealers.

[42 FR 40891, Aug. 12, 1977]

§ 343.2 Definitions.

For purposes of this paragraph, the terms herein have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)) and the rules of the Municipal Securities Rulemaking Board. The term *Act* shall mean the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

[42 FR 40891, Aug. 12, 1977]

§ 343.3 Filing of Form MSD-4, Amending Statements, and Form MSD-5.

(a) On and after September 15, 1977, an insured State nonmember bank, or a subsidiary or a department or a division thereof, which is a municipal securities dealer shall not permit a person to be associated with it as a municipal securities principal or municipal securities representative unless it has filed with the Corporation an original and two copies of Form MSD-4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer", completed in accordance with the instructions contained therein, for that person. Form MSD-4 is prescribed by the Corporation for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons".

(b) Whenever a bank municipal securities dealer receives a statement pur-

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suant to paragraph (c) of Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons" (*amending statement*), from a person for whom it has filed a Form MSD-4 with the Corporation pursuant to paragraph (a) of this section, such dealer shall, within ten days thereafter, file three copies of the amending statement with the Corporation accompanied by an original and two copies of a transmittal letter which includes the name of the dealer and a reference to the material transmitted, identifying the person involved, and is signed by a municipal securities principal associated with the dealer.

(c) Within thirty days after the termination of the association of a municipal securities principal or municipal securities representative with a bank municipal securities dealer which has filed a Form MSD-4 with the Corporation for that person pursuant to paragraph (a) of this section, such dealer shall file an original and two copies of a notification of termination with the Corporation on Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer", completed in accordance with the instructions contained therein.

(d) A bank municipal securities dealer which files a Form MSD-4, Form MSD-5, or an amending statement with the Corporation under this part shall retain for its own records a copy of each such Form MSD-4, Form MSD-5, or amending statement for at least three years after termination of the associated person with respect to whom the filing was made.

(e) Forms MSD-4, Forms MSD-5 and amending statements are to be filed with Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429. The date that the Corporation receives a Form MSD-4, Form MSD-5, or amending statement shall be the date of filing. A Form MSD-4, Form MSD-5, or amending statement which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD-4, Form MSD-5 or

amending statement has been completed in accordance with the applicable requirements or that any information contained therein is true, current, complete or not misleading. Every Form MSD-4, Form MSD-5, or amending statement filed with the Corporation under this part shall constitute a filing with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act (15 U.S.C. 78q(c)(1)) and a *report, application, or document* within the meaning of section 32(a) of the Act (15 U.S.C. 78ff(a)). Forms MSD-4 and MSD-5 can be obtained from the FDIC regional office for the area in which the bank is located.

[42 FR 40891, Aug. 12, 1977, as amended at 45 FR 37179, June 2, 1980; 60 FR 31384, June 15, 1995]

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

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AUTHORITY: 12 U.S.C. 1817, 1818 and 1819.

SOURCE: 62 FR 9919, Mar. 5, 1997, unless otherwise noted.

§ 344.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to ensure that purchasers of securities in transactions effected by a state nonmember insured bank (except a District bank) or a foreign bank having an insured branch are provided adequate information regarding transactions. This part is also designed to ensure that banks subject to this part maintain adequate records and controls with respect to the securities transactions they effect.

(b) *Scope; general.* Any security transaction effected for a customer by a bank is subject to this part unless ex-

cepted by § 344.2. A bank effecting transactions in government securities is subject to the notification, record-keeping, and policies and procedures requirements of this part. This part also applies to municipal securities transactions by a bank that is not registered as a "municipal securities dealer" with the Securities and Exchange Commission. See 15 U.S.C. 78c(a)(30) and 78o-4.

§ 344.2 Exceptions.

(a) A bank effecting securities transactions for customers is not subject to all or part of this part 344 to the extent that they qualify for one or more of the following exceptions:

(1) *Small number of transactions.* The requirements of §§ 344.4(a) (2) through (4) and 344.8(a) (1) through (3) do not apply to a bank effecting an average of fewer than 200 securities transactions per year for customers over the prior three calendar year period. The calculation of this average does not include transactions in government securities.

(2) *Government securities.* The record-keeping requirements of § 344.4 do not apply to banks effecting fewer than 500 government securities brokerage transactions per year. This exemption does not apply to government securities dealer transactions by banks.

(3) *Municipal securities.* This part does not apply to transactions in municipal securities effected by a bank registered with the Securities and Exchange Commission as a "municipal securities dealer" as defined in title 15 U.S.C. 78c(a)(30). See 15 U.S.C. 78o-4.

(4) *Foreign branches.* Activities of foreign branches of a bank shall not be subject to the requirements of this part.

(5) *Transactions effected by registered broker/dealers.* (i) This part does not apply to securities transactions effected for a bank customer by a registered broker/dealer if:

(A) The broker/dealer is fully disclosed to the bank customer; and

(B) The bank customer has a direct contractual agreement with the broker/dealer.

(ii) This exemption extends to bank arrangements with broker/dealers which involve bank employees when